

REMARKS

The Examiner rejected claims 31, 32, and 34 under 35 U.S.C. § 102(b), as allegedly being anticipated by King (U.S. Patent No. 1,311,354).

The Examiner rejected claims 23, 25, 26, and 33 under 35 U.S.C. § 103(a) as allegedly being obvious in light of King (U.S. Patent No. 1,311,354).

Applicants respectfully traverse the § 102 and § 103 rejections with the following arguments.

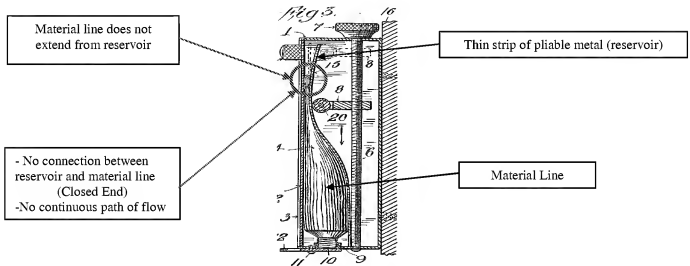
35 U.S.C. § 102(b)

The Examiner rejected claims 31, 32, and 34 under 35 U.S.C. § 102(b), as allegedly being anticipated by King (U.S. Patent No. 1,311,354).

Applicants respectfully contend that King does not anticipate claim 31, 32, and 34 because King does not teach, disclose, or suggest each and every element of the claim. For example, King fails to disclose a compressible material line **extending from** said reservoir. In the instant Office Action, the Examiner asserts that the tube of toothpaste (14) is the reservoir, and fails to delineate what exactly represents the compressible material line if the tube of toothpaste is the reservoir (page 2). Moreover, in the previous Final Office Action (3-12-08), the Examiner asserted that the reservoir was the cavity/space behind the thin strip of pliable metal, and the compressible material line was the tube of toothpaste (page 2, previous Final Office Action). The contradiction between Examiner's assertions regarding what elements of King represent the reservoir and compressible material line ultimately leads to one of two conclusions, both of which cannot sustain a rejection in light of Applicant's amendments made in the previous Final Office Action.

First, it is possible that the Examiner always intended the space/cavity behind the thin strip of pliable metal to represent the reservoir, and the tube of toothpaste to represent the compressible material line. In that case, the tube of toothpaste certainly does not extend from a space/cavity behind the thin strip of pliable metal. The compressible material line in King **does not extend from** the reservoir; it is located behind the reservoir, represented in the drawings by a tube of toothpaste; the tube, or asserted compressible material line, is located entirely within the asserted reservoir. If the compressible material line is located entirely within and behind the thin strip of pliable metal and is **not connected to the reservoir**, how can it be said to extend from

the reservoir? In contrast, the claimed invention's compressible material line 102 *extends from* the reservoir 101 (see, for example the embodiment in FIG 4, wherein the compressible material line 102 **extends from** the reservoir 101 **and connects the reservoir** 101 to the dispensing needle, establishing a **continuous path of flow**). Moreover, King does not disclose having a continuous path of flow from a reservoir through a compressible material line; it has a closed end.



Second, it is possible that the Examiner intends that the tube of toothpaste represents both the reservoir and the compressible material line. In that case, if the tube of toothpaste is the reservoir, but is also the compressible material line, how can the tube of toothpaste extend from itself? To extend from something, there must be two separate elements; one element extends from the other. The reservoir and the compressible material line are two separate elements, wherein one element (the compressible material line) extends from the second element (the reservoir). Specifically, claim 31 reads, "providing a reservoir, wherein said reservoir holds a quantity of material, having a *compressible material line extending from said reservoir*" (emphasis added). King simply does not anticipate the claim limitations because it does not

teach having a compressible material line extending from said reservoir; thus, it does not teach each and every feature of the claimed invention.

Furthermore, the Examiner states in the Response to Amendment, “[t]he device of *King does not disclose a reservoir*, however, the material placed within the device, i.e., toothpaste which directly holds material therein and has a compressible line attached to and extending from the reservoir” (page 4) (emphasis added). Ostensibly, the Examiner’s own statement suggests that the compressible line in King allegedly extends from a non-existent reservoir (i.e. non-existent because, according to Examiner, King does not disclose a reservoir), and that the material placed within the device (toothpaste) itself has a compressible line. Thus, King does not disclose a reservoir having a compressible line extending from said reservoir as affirmatively claimed in the claim limitations.

Having a compressible material line extending from the reservoir is most certainly a patentably distinct and distinguishable feature. The reservoir and the compressible material line are two, different elements of the claim limitations. Additionally, how those elements interrelate with each other may describe the limitations of the claimed invention. Patentability is determined by analyzing the elements of the claim and how they interrelate with each other. Here, the claim limitations disclose a reservoir having a compressible material line extending from said reservoir; which is a patentably distinct and distinguishable feature not disclosed in King, which discloses a compressible material line located behind and entirely within a thin strip of pliable metal which allegedly forms a reservoir. Therefore, the claim amendments do reflect a patentably distinct feature not disclosed by King.

Based on the arguments provided *supra* and Applicant's previous claim amendments, Applicant respectfully considers the claim, as amended, to be in condition for allowance.

Therefore, Applicant respectfully requests reconsideration and removal of the § 102 rejection.

35 U.S.C. § 103(a)

The Examiner rejected claims 23, 25, 26, and 33 under 35 U.S.C. § 103(a) as allegedly being obvious in light of King (U.S. Patent 1,311,354).

Applicants respectfully contend that based on the arguments presented *supra*, and the previous claim amendments, claim 23, 25, 26, and 33 are no longer obvious in light of King, and are in condition for allowance.

CONCLUSION

Based on the preceding arguments, Applicants respectfully believe that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicants invites the Examiner to contact Applicants' representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 19-0513.

Date: December 3, 2008

/Jonathan M. Madsen/

Jonathan M. Madsen
Registration No.: 55,419

Schmeiser, Olsen & Watts
22 Century Hill Drive – Suite 302
Latham, New York 12110
(518) 220-1850